

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ALLEN KEE,

Plaintiff,

v.

THE DETROIT LIONS, INC.; GETTY
IMAGES (US), INC.; NFL PROPERTIES,
LLC; NFL ENTERPRISES, LLC;
FANATICS RETAIL GROUP NORTH,
LLC; DICK'S SPORTING GOODS, INC.;
BULLION INTERNATIONAL, INC. d/b/a
THE HIGHLAND MINT; TIMELESS
CREATIONS, INC.; MCFARLANE TOYS,
INC.; KEVIN GORDON d/b/a VC
COLLECTIBLES; and JOHN DOES 1-10,

Defendants.

Case No.: 1:24-cv-00223 (ALC)

**DICK'S SPORTING GOODS, INC.'S ANSWER
TO PLAINTIFF'S AMENDED COMPLAINT**

Defendant Dick's Sporting Goods, Inc. ("Dick's"), by and through its attorneys Manatt, Phelps & Phillips, LLP, hereby submits its Answer and Affirmative Defenses to the Amended Complaint filed by Allen Kee ("Plaintiff") on April 12, 2024 (the "Amended Complaint"). For the avoidance of doubt, Dick's denies any and all statements in the Amended Complaint's section headings or otherwise outside the numbered paragraphs therein. As to the allegations stated in the numbered paragraphs of the Amended Complaint, Dick's hereby answers and responds as follows:

1. Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 1 of the Amended Complaint.
2. Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 2 of the Amended Complaint.

3. Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 3 of the Amended Complaint.

4. Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 4 of the Amended Complaint.

5. Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 5 of the Amended Complaint.

6. Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 6 of the Amended Complaint.

7. Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 7 of the Amended Complaint.

8. Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 8 of the Amended Complaint.

9. Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 9 of the Amended Complaint.

10. Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 10 of the Amended Complaint.

11. Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 11 of the Amended Complaint.

12. Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 12 of the Amended Complaint.

13. Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 13 of the Amended Complaint.

14. Dick's denies knowledge or information sufficient to form a belief as to the truth

of the allegations in paragraph 14 of the Amended Complaint.

15. Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 15 of the Amended Complaint.

16. Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 16 of the Amended Complaint.

17. Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 17 of the Amended Complaint.

18. Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 18 of the Amended Complaint.

19. Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 19 of the Amended Complaint.

20. Dick's denies the allegations in paragraph 20 of the Amended Complaint, except admits that its registered agent, Corporation Service Company, is located at 80 State Street, Albany, NY.

21. Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 21 of the Amended Complaint.

22. Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 22 of the Amended Complaint.

23. Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 23 of the Amended Complaint.

24. Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 24 of the Amended Complaint.

25. Dick's denies knowledge or information sufficient to form a belief as to the truth

of the allegations in paragraph 25 of the Amended Complaint.

26. Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 26 of the Amended Complaint.

27. Paragraph 27 of the Amended Complaint does not set forth any allegation susceptible to admission or denial and, therefore, no answer is required. To the extent a response is required, Dick's, denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 27 of the Amended Complaint.

28. Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 28 of the Amended Complaint.

JURISDICTION AND VENUE

29. Paragraph 29 of the Amended Complaint is a summary of the nature of this action and contains allegations of law, not fact, to which no response is required. To the extent a response is required, Dick's denies the allegations in paragraph 29 of the Amended Complaint.

30. Paragraph 30 of the Amended Complaint contains allegations of law, not fact, to which no response is required. To the extent a response is required, Dick's denies the allegations in paragraph 30.

31. Paragraph 31 of the Amended Complaint contains allegations of law, not fact, to which no response is required. To the extent a response is required, Dick's denies the allegations in paragraph 31.

32. Paragraph 32 of the Amended Complaint contains allegations of law, not fact, to which no response is required. To the extent a response is required, Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 32 of the Amended Complaint.

33. Paragraph 33 of the Amended Complaint contains allegations of law, not fact, to which no response is required. To the extent a response is required, Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 33 of the Amended Complaint.

34. Paragraph 34 of the Amended Complaint contains allegations of law, not fact, to which no response is required. To the extent a response is required, Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 34 of the Amended Complaint.

35. Paragraph 35 of the Amended Complaint contains allegations of law, not fact, to which no response is required. To the extent a response is required, Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 35 of the Amended Complaint.

36. Paragraph 36 of the Amended Complaint contains allegations of law, not fact, to which no response is required. To the extent a response is required, Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 36 of the Amended Complaint.

37. Paragraph 37 of the Amended Complaint contains allegations of law, not fact, to which no response is required. To the extent a response is required, Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 37 of the Amended Complaint.

38. Paragraph 38 of the Amended Complaint contains allegations of law, not fact, to which no response is required. To the extent a response is required, Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 38 of the

Amended Complaint.

39. Dick's admits that it owns and operates sporting goods stores in the United States, including in New York.

40. Dick's admits that it advertises, sells, and distributes sports memorabilia products in the state of New York and this District, and otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 40 of the Amended Complaint.

41. Paragraph 41 of the Amended Complaint contains allegations of law, not fact, to which no response is required. To the extent a response is required, Dick's denies the allegations in paragraph 41 of the Amended Complaint.

42. Paragraph 42 of the Amended Complaint contains allegations of law, not fact, to which no response is required. To the extent a response is required, Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 42 of the Amended Complaint.

43. Paragraph 43 of the Amended Complaint contains allegations of law, not fact, to which no response is required. To the extent a response is required, Dick's admits only that it has displayed and sold a product identified in Exhibit 3 to the Amended Complaint, the contents of which speak for themselves, and otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 43 of the Amended Complaint.

44. Paragraph 44 of the Amended Complaint contains allegations of law, not fact, to which no response is required. To the extent a response is required, Dick's admits only that it has displayed and sold a product identified in Exhibit 3 to the Amended Complaint, the contents of which speak for themselves, and otherwise denies knowledge or information sufficient to form

a belief as to the truth of the allegations in paragraph 44 of the Amended Complaint.

FACTUAL ALLEGATIONS

Plaintiff's Photograph

45. Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 45 of the Amended Complaint.

46. Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 46 of the Amended Complaint.

47. Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 47 of the Amended Complaint.

48. Dick's refers to the contents of the document attached as Exhibit 1, which speak for themselves, and otherwise denies the allegations contained in paragraph 48 of the Amended Complaint.

49. Paragraph 49 of the Amended Complaint contains allegations of law, not fact, to which no response is required. To the extent a response is required, Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 49 of the Amended Complaint.

50. Paragraph 50 of the Amended Complaint contains allegations of law, not fact, to which no response is required. To the extent a response is required, Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 50 of the Amended Complaint.

51. Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 51 of the Amended Complaint and refers to Registration No. VA 2-373-133 filed with the United States Copyright Office, the contents of which speak for

themselves.

52. Paragraph 52 of the Amended Complaint contains allegations of law, not fact, to which no response is required. To the extent a response is required, Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 52 of the Amended Complaint.

53. Paragraph 53 of the Amended Complaint contains allegations of law, not fact, to which no response is required. To the extent a response is required, Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 53 of the Amended Complaint.

54. Paragraph 54 of the Amended Complaint contains allegations of law, not fact, to which no response is required. To the extent a response is required, Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 54 of the Amended Complaint.

55. Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 55 of the Amended Complaint.

56. Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 56 of the Amended Complaint.

57. Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 57 of the Amended Complaint.

58. Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 58 of the Amended Complaint.

59. Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 59 of the Amended Complaint.

60. Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 60 of the Amended Complaint.

61. Paragraph 61 of the Amended Complaint contains allegations of law, not fact, to which no response is required. To the extent a response is required, Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 61 of the Amended Complaint.

Getty Images

62. Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 62 of the Amended Complaint.

63. Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 63 of the Amended Complaint.

64. Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 64 of the Amended Complaint and refers to the to the document therein for a complete statement of its contents.

65. Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 65 of the Amended Complaint and refers to the to the document therein, the contents of which speak for themselves.

66. Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 66 of the Amended Complaint and refers to the to the document therein for a complete statement of its contents.

67. Paragraph 67 of the Amended Complaint contains allegations of law, not fact, to which no response is required. To the extent a response is required, Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 67 of the

Amended Complaint.

68. Paragraph 68 of the Amended Complaint contains allegations of law, not fact, to which no response is required. To the extent a response is required, Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 68 of the Amended Complaint.

69. Paragraph 69 of the Amended Complaint contains allegations of law, not fact, to which no response is required. To the extent a response is required, Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 69 of the Amended Complaint.

70. Paragraph 70 of the Amended Complaint contains allegations of law, not fact, to which no response is required. To the extent a response is required, Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 70 of the Amended Complaint.

71. Paragraph 71 of the Amended Complaint contains allegations of law, not fact, to which no response is required. To the extent a response is required, Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 71 of the Amended Complaint.

72. Paragraph 72 of the Amended Complaint contains allegations of law, not fact, to which no response is required. To the extent a response is required, Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 72 of the Amended Complaint.

Detroit Lions & TCI

73. Dick's denies knowledge or information sufficient to form a belief as to the truth

of the allegations in paragraph 73 of the Amended Complaint.

74. Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 74 of the Amended Complaint.

75. Paragraph 75 of the Amended Complaint contains allegations of law, not fact, to which no response is required. To the extent a response is required, Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 75 of the Amended Complaint and refers to the to the photograph therein, the contents of which speak for themselves.

76. Dick's refers to the video cited in paragraph 76 of the Amended Complaint for its contents, which speak for themselves, and otherwise denies the allegations in paragraph 76.

77. Dick's refers to the video cited in paragraph 77 of the Amended Complaint for its contents, which speak for themselves, and otherwise denies the allegations in paragraph 77.

78. Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 78 of the Amended Complaint.

79. Dick's refers to the video cited in paragraph 79 of the Amended Complaint for its contents, which speak for themselves, and otherwise denies the allegations in paragraph 79.

80. Paragraph 80 of the Amended Complaint contains allegations of law, not fact, to which no response is required. To the extent a response is required, Dick's refers to the video cited in paragraph 80 of the Amended Complaint for its contents, which speak for themselves, and otherwise denies the allegations in paragraph 80.

81. Dick's refers to the contents of the document attached as Exhibit 2, which speak for themselves, and otherwise denies the allegations contained in paragraph 81 of the Amended Complaint.

82. Paragraph 82 of the Amended Complaint contains allegations of law, not fact, to which no response is required. To the extent a response is required, Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 82 of the Amended Complaint.

83. Paragraph 83 of the Amended Complaint contains allegations of law, not fact, to which no response is required. To the extent a response is required, Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 83 of the Amended Complaint.

84. Paragraph 84 of the Amended Complaint contains allegations of law, not fact, to which no response is required. To the extent a response is required, Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 84 of the Amended Complaint.

85. Paragraph 85 of the Amended Complaint contains allegations of law, not fact, to which no response is required. To the extent a response is required, Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 85 of the Amended Complaint.

Retail Defendants

86. Paragraph 86 of the Amended Complaint contains allegations of law, not fact, to which no response is required. To the extent a response is required, Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 86 of the Amended Complaint.

87. Dick's refers to the contents of the product therein, which speak for themselves, and otherwise denies the allegations contained in paragraph 87 of the Amended Complaint.

88. Paragraph 88 of the Amended Complaint does not set forth any allegation susceptible to admission or denial and, therefore, no answer is required.

89. Dick's refers to the contents of the product therein, which speak for themselves, and otherwise denies the allegations contained in paragraph 89 of the Amended Complaint.

90. Paragraph 90 of the Amended Complaint contains allegations of law, not fact, to which no response is required. To the extent a response is required, Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 90 of the Amended Complaint.

91. Paragraph 91 of the Amended Complaint contains allegations of law, not fact, to which no response is required. To the extent a response is required, Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 91 of the Amended Complaint.

92. Paragraph 92 of the Amended Complaint contains allegations of law, not fact, to which no response is required. To the extent a response is required, Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 92 of the Amended Complaint.

93. Dick's refers to the webpage cited in Paragraph 93 of the Amended Complaint for its contents, which speaks for themselves.

94. Dick's refers to the contents of the document attached as Exhibit 3, which speak for themselves.

95. Dick's refers to the webpage cited in Paragraph 95 of the Amended Complaint for its contents, which speaks for themselves, and otherwise denies the allegations in Paragraph 95 of the Amended Complaint.

96. Dick's refers to the contents of the document attached as Exhibit 4, which speak for themselves, and otherwise denies the allegations contained in paragraph 96 of the Amended Complaint.

97. Dick's refers to the webpage cited in Paragraph 97 of the Amended Complaint for its contents, which speaks for themselves, and otherwise denies the allegations in Paragraph 97 of the Amended Complaint.

98. Dick's refers to the contents of the document attached as Exhibit 5, which speak for themselves, and otherwise denies the allegations contained in paragraph 98 of the Amended Complaint.

99. Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 99 of the Amended Complaint.

100. Dick's refers to the website quoted in Paragraph 100 of the Amended Complaint for its contents, which speaks for themselves, and otherwise denies the allegations in Paragraph 100 of the Amended Complaint.

101. Dick's refers to the website cited in Paragraph 101 of the Amended Complaint for its contents, which speaks for themselves, and otherwise denies the allegations in Paragraph 101 of the Amended Complaint.

102. Dick's refers to the contents of the document attached as Exhibit 6, which speak for themselves, and otherwise denies the allegations in paragraph 102 of the Amended Complaint.

103. Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 103 of the Amended Complaint.

104. Paragraph 104 of the Amended Complaint contains allegations of law, not fact, to

which no response is required. To the extent a response is required, Dick's denies the allegations in paragraph 104 of the Amended Complaint.

105. Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in the first sentence of paragraph 105 of the Amended Complaint. Dick's refers to the contents of the document attached as Exhibit 7, which speak for themselves, and otherwise denies the allegations in the second sentence of paragraph 105 of the Amended Complaint.

106. Dick's admits only that it sold the product depicted in Exhibit 3 of the Amended Complaint and otherwise denies the allegations in paragraph 106 of the Amended Complaint.

General Allegations

107. Paragraph 107 of the Amended Complaint contains allegations of law, not fact, to which no response is required. To the extent a response is required, Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 107 of the Amended Complaint.

108. Paragraph 108 of the Amended Complaint contains allegations of law, not fact, to which no response is required. To the extent a response is required, Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 108 of the Amended Complaint.

109. Paragraph 109 of the Amended Complaint contains allegations of law, not fact, to which no response is required. To the extent a response is required, Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 109 of the Amended Complaint.

110. Paragraph 110 of the Amended Complaint contains allegations of law, not fact, to

which no response is required. To the extent a response is required, Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 110 of the Amended Complaint.

111. Paragraph 111 of the Amended Complaint contains allegations of law, not fact, to which no response is required. To the extent a response is required, Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 111 of the Amended Complaint.

112. Paragraph 112 of the Amended Complaint contains allegations of law, not fact, to which no response is required. To the extent a response is required, Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 112 of the Amended Complaint.

113. Paragraph 113 of the Amended Complaint contains allegations of law, not fact, to which no response is required. To the extent a response is required, Dick's denies the allegations in paragraph 113 of the Amended Complaint.

114. Paragraph 114 of the Amended Complaint contains allegations of law, not fact, to which no response is required. To the extent a response is required, Dick's denies the allegations in paragraph 114 of the Amended Complaint.

ANSWER TO FIRST COUNT

115. Dick's incorporates by reference the responses above to paragraphs 1 through 114, as though fully set forth herein.

116. Paragraph 116 of the Amended Complaint contains allegations of law, not fact, to which no response is required. To the extent a response is required, Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 116 of the

Amended Complaint.

117. Paragraph 117 of the Amended Complaint contains allegations of law, not fact, to which no response is required. To the extent a response is required, Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 117 of the Amended Complaint.

118. Paragraph 118 of the Amended Complaint contains allegations of law, not fact, to which no response is required. To the extent a response is required, Dick's denies the allegations in paragraph 118 of the Amended Complaint.

119. Paragraph 119 of the Amended Complaint contains allegations of law, not fact, to which no response is required. To the extent a response is required, Dick's denies the allegations in paragraph 119 of the Amended Complaint.

120. Paragraph 120 of the Amended Complaint contains allegations of law, not fact, to which no response is required. To the extent a response is required, Dick's denies the allegations in paragraph 120 of the Amended Complaint.

121. Paragraph 121 of the Amended Complaint contains allegations of law, not fact, to which no response is required. To the extent a response is required, Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 121 of the Amended Complaint.

122. Paragraph 122 of the Amended Complaint contains allegations of law, not fact, to which no response is required. To the extent a response is required, Dick's denies the allegations in paragraph 122 of the Amended Complaint.

123. Paragraph 123 of the Amended Complaint contains allegations of law, not fact, to which no response is required. To the extent a response is required, Dick's denies the allegations

in paragraph 123 of the Amended Complaint.

124. Paragraph 124 of the Amended Complaint contains allegations of law, not fact, to which no response is required. To the extent a response is required, Dick's denies the allegations in paragraph 124 of the Amended Complaint.

125. Paragraph 125 of the Amended Complaint contains allegations of law, not fact, to which no response is required. To the extent a response is required, Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 125 of the Amended Complaint.

126. Paragraph 126 of the Amended Complaint contains allegations of law, not fact, to which no response is required. To the extent a response is required, Dick's denies the allegations in paragraph 126 of the Amended Complaint.

127. Paragraph 127 of the Amended Complaint contains allegations of law, not fact, to which no response is required. To the extent a response is required, Dick's denies that Plaintiff is entitled to any of the damages or other relief requested in paragraph 127.

ANSWER TO SECOND COUNT

128. Dick's incorporates by reference the responses above to paragraphs 1 through 127, as though fully set forth herein.

129. Paragraph 129 of the Amended Complaint contains allegations of law, not fact, to which no response is required. To the extent a response is required, Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 129 of the Amended Complaint.

130. Paragraph 130 of the Amended Complaint contains allegations of law, not fact, to which no response is required. To the extent a response is required, Dick's denies knowledge or

information sufficient to form a belief as to the truth of the allegations in paragraph 130 of the Amended Complaint.

131. Paragraph 131 of the Amended Complaint contains allegations of law, not fact, to which no response is required. To the extent a response is required, Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 131 of the Amended Complaint.

132. Paragraph 132 of the Amended Complaint contains allegations of law, not fact, to which no response is required. To the extent a response is required, Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 132 of the Amended Complaint.

ANSWER TO THIRD COUNT

133. Dick's incorporates by reference the responses above to paragraphs 1 through 132, as though fully set forth herein.

134. Paragraph 134 of the Amended Complaint contains allegations of law, not fact, to which no response is required. To the extent a response is required, Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 134 of the Amended Complaint.

135. Paragraph 135 of the Amended Complaint contains allegations of law, not fact, to which no response is required. To the extent a response is required, Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 135 of the Amended Complaint.

136. Paragraph 136 of the Amended Complaint contains allegations of law, not fact, to which no response is required. To the extent a response is required, Dick's denies knowledge or

information sufficient to form a belief as to the truth of the allegations in paragraph 136 of the Amended Complaint.

ANSWER TO FOURTH COUNT

137. Dick's incorporates by reference the responses above to paragraphs 1 through 136, as though fully set forth herein.

138. Paragraph 138 of the Amended Complaint contains allegations of law, not fact, to which no response is required. To the extent a response is required, Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 138 of the Amended Complaint.

139. Paragraph 139 of the Amended Complaint contains allegations of law, not fact, to which no response is required. To the extent a response is required, Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 139 of the Amended Complaint.

140. Paragraph 140 of the Amended Complaint contains allegations of law, not fact, to which no response is required. To the extent a response is required, Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 140 of the Amended Complaint.

141. Paragraph 141 of the Amended Complaint contains allegations of law, not fact, to which no response is required. To the extent a response is required, Dick's denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 141 of the Amended Complaint.

142. Paragraph 142 of the Amended Complaint contains allegations of law, not fact, to which no response is required. To the extent a response is required, Dick's denies knowledge or

information sufficient to form a belief as to the truth of the allegations in paragraph 142 of the Amended Complaint.

PRAYER FOR RELIEF

Dick's denies that Plaintiff is entitled to the relief requested in his Amended Complaint or to any other relief whatsoever.

GENERAL DENIAL

All allegations in the Amended Complaint, including those presented in any and all attached exhibits or in any and all subparts or subparagraphs, that are not specifically admitted above are hereby expressly and fully denied, and Dick's denies any and all allegations implied or that may be inferred from any captions or headings in or footnotes to the Amended Complaint or that purport to relate to conduct by other parties. For the avoidance of doubt, as to the responses above, Dick's denies any liability as to having violated the Copyright Act, or any applicable state or federal law, or that Plaintiff is entitled to any damages or other relief under the Copyright Act or otherwise, including but not limited to the specific statutory provisions identified in the Amended Complaint. Dick's expressly reserves the right to amend its responses above and affirmative defenses below for any reason as permitted by applicable rules, orders, and law.

AFFIRMATIVE DEFENSES

By alleging defenses herein, Dick's does not intend to alter the burden of proof and/or burden of going forward with the evidence that otherwise exists with respect to any particular issue at law or in equity. All defenses are pleaded in the alternative, and do not constitute an admission of liability or as to whether Plaintiff is entitled to any relief whatsoever. Dick's also incorporates by references as if fully set forth herein any affirmative defense(s) of the other

named defendants in this action not set forth below, and further reserves the right to supplement the affirmative defenses herein.

FIRST AFFIRMATIVE DEFENSE

The Amended Complaint fails to state a claim upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

Plaintiff's purported claims, including, without limitation, his right to recover damages, are barred in whole or in part by the applicable statute of limitations.

THIRD AFFIRMATIVE DEFENSE

Plaintiff lacks standing, in whole or in part, to bring the claims and seek the relief against Dick's set forth in the Amended Complaint.

FOURTH AFFIRMATIVE DEFENSE

The material allegedly infringed, and each element thereof, is not original and/or does not constitute protectable and copyrightable subject matter.

FIFTH AFFIRMATIVE DEFENSE

The material allegedly infringed, and each element thereof, is in the public domain.

SIXTH AFFIRMATIVE DEFENSE

The Amended Complaint and any purported claims for relief therein fail because Dick's does not infringe and has not infringed the asserted copyright.

SEVENTH AFFIRMATIVE DEFENSE

The Amended Complaint and any purported claims for relief therein are barred to the extent they are based on the alleged infringement of material that is not subject of a valid and enforceable copyright registration.

EIGHTH AFFIRMATIVE DEFENSE

The Amended Complaint and any purported claims for relief therein are barred to the extent that Plaintiff knowingly included material inaccuracies on the application for the relevant copyright registrations, such that the registrations are invalid pursuant to 17 U.S.C. § 411(b).

NINTH AFFIRMATIVE DEFENSE

Plaintiff's claim for statutory damages, as well as any claim for attorney's fees, is barred under 17 U.S.C. § 412 because the acts alleged to constitute infringement commenced before the effective date of Plaintiff's alleged copyright registration.

TENTH AFFIRMATIVE DEFENSE

Without admitting any infringement, which is denied, the Amended Complaint and any purported claims for relief therein fail because, to the extent Plaintiff's alleged work contains any protectable expression that was used by Dick's, such use is protected, and not actionable, under the doctrine of fair use.

ELEVENTH AFFIRMATIVE DEFENSE

The Amended Complaint and any purported claims for relief therein are barred, precluded, and/or limited by the unclean hands doctrine.

TWELFTH AFFIRMATIVE DEFENSE

The Amended Complaint and any purported claims for relief therein are barred, precluded, and/or limited by the doctrine of waiver.

THIRTEENTH AFFIRMATIVE DEFENSE

The Amended Complaint and any purported claims for relief therein are barred, precluded, and/or limited by the doctrine of estoppel.

FOURTEENTH AFFIRMATIVE DEFENSE

The Amended Complaint and any purported claims for relief therein are barred, precluded, and/or limited by the doctrines of acquiescence and consent.

FIFTEENTH AFFIRMATIVE DEFENSE

The Amended Complaint and any purported claims for relief therein are barred, precluded, and/or limited by the doctrines of express and/or implied license.

SIXTEENTH AFFIRMATIVE DEFENSE

The Amended Complaint and any purported claims for relief therein are barred, in whole or in part, by the doctrine of copyright misuse.

SEVENTEENTH AFFIRMATIVE DEFENSE

The Amended Complaint and any purported claims for relief are barred, precluded, and/or limited to the extent the alleged use of the material at issue constitutes *de minimis* use.

EIGHTEENTH AFFIRMATIVE DEFENSE

Plaintiff did not incur any damages. To the extent Plaintiff did incur any damages, which Dick's expressly denies, Plaintiff failed to mitigate his damages.

NINETEENTH AFFIRMATIVE DEFENSE

Plaintiff is not entitled to recover any of Dick's' profits because Dick's has no profits attributable to the alleged infringement.

TWENTIETH AFFIRMATIVE DEFENSE

Plaintiff's alleged damages, if any, are the sole and direct result of forces, acts, and omissions independent of Dick's.

TWENTY-FIRST AFFIRMATIVE DEFENSE

The Amended Complaint and any purported claims for relief therein are barred in whole

or in part because Dick's acted in good faith and had no reason to believe that any alleged acts constituted infringement. To the extent Plaintiff's claims are not entirely barred by Dick's good faith, any damages, which Dick's expressly denies, are limited by Dick's innocent intent.

TWENTY-SECOND AFFIRMATIVE DEFENSE

Plaintiff's prayer for injunctive relief is barred because he has an adequate remedy at law.

TWENTY-THIRD AFFIRMATIVE DEFENSE

The Amended Complaint does not describe the claims or facts with sufficient particularity to permit Dick's to ascertain what other defenses may exist. Dick's may rely on any and all further separate and additional defenses that become available or appear during discovery in this action. Dick's reserves the right to amend this Answer for the purpose of asserting such additional defenses.

WHEREFORE, Dick's respectfully submits that the Amended Complaint should be dismissed with prejudice and judgment entered in its favor, and that Dick's be awarded its reasonable attorneys' fees and costs incurred in the defense of this action pursuant to 17 U.S.C. § 505.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Dick's hereby demands its right to trial by jury of all issues that may so be tried.

Dated: New York, New York
May 10, 2024

Respectfully submitted,

MANATT, PHELPS & PHILLIPS, LLP

By: /s/ Matthew F. Bruno

Matthew F. Bruno
7 Times Square
New York, New York 10036
Telephone: (212) 790-4500
Facsimile: (212) 790-4545
Email: MBruno@manatt.com

Nathaniel L. Bach (*pro hac vice* application
forthcoming)
2049 Century Park East, Suite 1700
Los Angeles, CA 90067
Tel.: (310) 312-4000
Email: NBach@manatt.com
Attorneys for Defendant Dick's Sporting Goods, Inc.